

district court a libel praying seizure and condemnation of 300 cans of salad oil at Newark, N. J., alleging that the article had been shipped in interstate commerce on or about May 28, 1934, by Angelo D. Polizzi, from Rochester, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "La Feroce Brand Vegetable Salad Oil Slightly Flavored with Pure Olive Oil A Compound Net Contents One Gallon."

The article was alleged to be misbranded in that the impression conveyed by the predominatingly green color of the label and the prominence given to the legend "Pure Olive Oil", and the statement on the label, "Net Contents One Gallon", were false and misleading, and tended to deceive and mislead the purchaser. Misbranding was alleged for the further reason that the article purported to be a foreign product when not so, and for the further reason that it was food in package form, and the quantity of the contents was not plainly and conspicuously marked on the outside of the package since the statement made was incorrect.

On February 18, 1935, Joseph Polizzi, claimant, having admitted the allegations of the libel and having consented to the entry of a decree, judgment of condemnation was entered and it was ordered that the product be released under bond, conditioned that it be repacked in properly labeled cans or otherwise disposed of in a manner approved by this Department.

M. L. WILSON, *Acting Secretary of Agriculture.*

**24217. Misbranding of black pepper. U. S. v. 40 Cases of Black Pepper. Default decree of condemnation and destruction. (F. & D. no. 33031. Sample no. 68547-A.)**

Sample packages of black pepper taken from the shipment involved in this case were found to contain less than 3 ounces, the labeled weight.

On June 29, 1934, the United States attorney for the Middle District of Alabama, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 40 cases of black pepper at Dothan, Ala., alleging that the article had been shipped in interstate commerce, on or about February 7 and April 2, 1934, by the Cumberland Manufacturing Co., Inc., from Nashville, Tenn., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: (Can) "Windsor Brand Black Pepper Three Oz. Net Weight Packed by Cumberland Mfg. Co., Inc., Nashville, Tenn."

The article was alleged to be misbranded in that the statement on the label, "Three Oz. Net Weight", was false and misleading and tended to deceive and mislead the purchaser, and in that it was food in package form and the label failed to bear a statement of the quantity of the contents since the statement made was incorrect.

On December 6, 1934, no claimant having appeared, judgment of condemnation was entered and it was ordered that the product be destroyed.

M. L. WILSON, *Acting Secretary of Agriculture.*

**24218. Misbranding of canned tomatoes. U. S. v. 148 Cases of Canned Tomatoes. Decree of condemnation. Product released under bond to be relabeled. (F. & D. no. 33057. Sample nos. 68400-A. 77427-A.)**

This case involved an interstate shipment of canned tomatoes which fell below the standard promulgated by the Secretary of Agriculture for such products because of lack of color, and which was not labeled to indicate that it was substandard.

On July 9, 1934, the United States attorney for the District of Massachusetts, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 148 cases of canned tomatoes at Brockton, Mass., alleging that the article had been shipped in interstate commerce on or about May 15, 1934, by C. W. Baker & Sons, from Sanford, Fla., and charging misbranding in violation of the Food and Drugs Act as amended. The article was labeled in part: "Eckerson's Tomatoes Hand Packed \* \* \* Packed by Eckerson Fruit Canners, Inc. at Sanford, Fla. Executive Office Jersey City, N. J."

The article was alleged to be misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture for such canned food because of lack of color, and its package or label failed to bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.